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SENATE BILL 338

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Dede Feldman

FOR THE MEDICAID REFORM COMMITTEE

AN ACT

RELATING TO HEALTH; DIRECTING THE HUMAN SERVICES DEPARTMENT TO
IMPLEMENT PROGRAM CHANGE RECOMMENDATIONS OF THE MEDICAID REFORM
COMMITTEE; ENACTING A NEW SECTION OF THE PUBLIC ASSISTANCE ACT;
DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Public Assistance Act is
enacted to read:

" [NEW MATERIAL] MEDICAID REFORM- PROGRAM CHANGES. --

A. The department shall carry out the medicaid
program changes as recommended by the medicaid reform committee
that was established pursuant to Laws 2002, Chapter 96, as
follows:

(1) develop a uniform preferred drug list for
the state's medicaid prescription drug benefit and integrate

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1 all medicaid programs or services administered by the medical
2 assistance division of the department to its use;

3 (2) work with other agencies to integrate the
4 use of the uniform preferred drug list as described in
5 Paragraph (1) of this subsection to other health care programs,
6 including the department of health, the publicly funded health
7 care agencies of the Health Care Purchasing Act, state agencies
8 that purchase prescription drugs and other public or private
9 purchasers of prescription drugs with whom the state can enter
10 into an agreement for the use of a uniform preferred drug list;

11 (3) identify entities that are eligible to
12 participate in the federal drug pricing program under Section
13 340b of the federal Public Health Service Act. The department
14 shall make a reasonable effort to assist the eligible entities
15 to enroll in the program and to purchase prescription drugs
16 under the federal drug pricing program. The department shall
17 ensure that entities enrolled in the federal drug pricing
18 program are reimbursed for drugs purchased for use by medicaid
19 recipients at acquisition cost and that the purchases are not
20 included in a rebate program;

21 (4) work toward the development of a
22 prescription drug purchasing cooperative to combine the buying
23 power of the state's medicaid program, the publicly funded
24 health care agencies of the Health Care Purchasing Act, the
25 department of health, the corrections department and other

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1 potential public or private purchasers, including other states,
2 to obtain the best price for prescription drugs. The
3 administration and price negotiation of the prescription drug
4 purchasing cooperative shall be consolidated under a single
5 agency as determined by the governor;

6 (5) in consultation and collaboration with the
7 department of health and medicaid providers and contractors,
8 develop a program to expand the use of community health
9 promoters. The community health promoters shall assist
10 medicaid recipients in understanding the requirements of the
11 medicaid program; ensuring that recipients are seeking and
12 receiving primary and preventive health care services;
13 following health care providers' orders or recommendations for
14 medication, diet and exercise; and keeping appointments for
15 examinations and diagnostic examinations;

16 (6) require that the managed care
17 organizations provide or strengthen disease management programs
18 for medical assistance recipients through closer coordination
19 with and assistance to primary care and safety net providers
20 and seek to adopt uniform key health status indicators. The
21 department shall ensure that the managed care organizations
22 make reasonable efforts and actively seek the expanded
23 participation in disease management programs of primary care
24 providers and other health care providers, particularly in
25 underserved areas;

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1 (7) ensure that case management services are
2 provided to assist medicaid recipients in accessing needed
3 medical, social and other services. The department shall
4 require that managed care organizations provide or strengthen
5 case management services through closer coordination with and
6 assistance to primary care and safety net providers. The case
7 management services shall be targeted to specific classes of
8 individuals or individuals in specific areas where medicaid
9 costs or utilization demonstrate a lack of health care
10 management or coordination;

11 (8) design a pilot disease management program
12 for the fee-for-service population. The department shall
13 ensure that the disease management program is based on key
14 health status indicators, accountability for clinical benefits
15 and demonstrated cost savings;

16 (9) continue the personal care option with
17 increased consumer awareness of consumer-directed services as a
18 choice in addition to consumer-delegated services;

19 (10) expand the program of all-inclusive care
20 for the elderly to an urban area with a population less than
21 four hundred thousand;

22 (11) in conjunction with the department of
23 health, the children, youth and families department and the
24 state agency on aging, coordinate or consolidate the state's
25 long-term care services, including health and social services

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1 and assessment and information and referral development for
2 recipients of all ages through an appropriate transition
3 process. The governor shall determine what single agency is
4 responsible for its administration;

5 (12) develop a fraud and abuse detection and
6 recovery plan that ensures cooperation, sharing of information
7 and general collaboration among the medicaid fraud control unit
8 of the attorney general, the managed care organizations,
9 medicaid providers, consumer groups and the department to
10 identify, prevent or recover medicaid reimbursement obtained
11 through fraudulent or inappropriate means;

12 (13) work with other agencies to identify
13 other state-funded health care programs and services that may
14 be reimbursable under medicaid and to ensure that the programs
15 and services meet the requirements for federal funding;

16 (14) in conjunction with Indian health service
17 facilities or tribally operated health care facilities pursuant
18 to Section 638 of the Indian Self-Determination and Education
19 Assistance Act, medicaid managed care organizations and
20 medicaid providers, ensure that Indian health service
21 facilities and tribally operated facilities are utilized to the
22 extent possible for services that are eligible for a one
23 hundred percent federal medical assistance percentage match;

24 (15) develop a payment methodology for
25 eligible federally qualified health centers or federally

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1 qualified health center look-alikes that provides the maximum
2 allowable medicaid reimbursement;

3 (16) ensure that primary care clinics engaged
4 in medicaid-related outreach and enrollment activities are
5 appropriately reimbursed under medicaid;

6 (17) assess a premium on selected medicaid
7 recipients who meet criteria as determined by the department;

8 (18) assess tiered co-payments on emergency
9 room services in amounts comparable to those assessed for the
10 same services by commercial health insurers or health
11 maintenance organizations, except that no co-payment shall be
12 imposed if the patient is admitted as a hospital inpatient as a
13 result of the emergency room evaluation. The emergency room
14 provider shall make a good faith effort to collect the co-
15 payment from the patient. The co-payment shall apply to
16 medicaid recipients in the managed care system or the fee-for-
17 service system;

18 (19) assess tiered co-payments on selected
19 higher-cost prescription drugs to provide incentives for
20 greater use of generic prescription drugs when there is a
21 generic or lower-cost equivalent available;

22 (20) assess a co-payment on the purchase of
23 selected prescription drugs that are not on the uniform
24 preferred drug list as described in Paragraph (1) of this
25 subsection;

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1 (21) resolve any conflicts or duplication in
2 patient cost-sharing requirements by ensuring that premiums or
3 co-payments do not impede medicaid recipients' access to health
4 care. The department shall ensure that premiums and co-
5 payments described in Paragraphs (17) through (20) of this
6 subsection are in compliance with federal requirements;

7 (22) provide vision benefits for adults that
8 do not exceed one routine eye exam and one set of corrective
9 lenses in a twelve-month period or more than one frame for
10 corrective lenses in a twenty-four-month period, except as
11 medically warranted;

12 (23) review its prescription drug policies to
13 ensure that pharmacists have the flexibility for and are not
14 discouraged from using generic prescription drugs when there is
15 a generic or lower-cost equivalent available; and

16 (24) review its nursing home eligibility
17 criteria to ensure that consideration of income, trusts and
18 other assets are the maximum permissible under federal law.

19 B. The department shall, to the extent possible,
20 combine or coordinate similar initiatives in this section or in
21 other medicaid reform committee recommendations to avoid
22 duplication or conflict. The department shall give preference
23 to those initiatives that provide significant cost savings
24 while protecting the quality and access of medicaid recipients'
25 health care services.

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1 C. The department shall ensure compliance with
2 federal requirements for implementation of the medicaid reform
3 committee's recommendations. The department shall request a
4 federal waiver as may be necessary to comply with federal
5 requirements.

6 D. As used in this section:

7 (1) "case management" means services that
8 ensure care coordination among the patient, the primary care
9 provider and other providers involved in addressing the
10 patient's health care needs, including care plan development,
11 communication and monitoring;

12 (2) "community health promoters" means persons
13 trained to promote health and health care access among low-
14 income persons and medically underserved communities;

15 (3) "disease management" means health care
16 services, including patient education, monitoring, data
17 collection and reporting, designed to improve health outcomes
18 of medicaid recipients in defined populations with selected
19 chronic diseases;

20 (4) "drug purchasing cooperative" means a
21 collaborative procurement process designed to secure
22 prescription drugs at the most advantageous prices and terms;

23 (5) "fee-for-service" means a traditional
24 method of paying for health care services under which providers
25 are paid for each service rendered;

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1 (6) "managed care system" refers to the
2 program for medicaid recipients required by Section 27-2-12.6
3 NMSA 1978;

4 (7) "medicaid" means the joint federal-state
5 health coverage program pursuant to Title 19 or Title 21 of the
6 federal act;

7 (8) "preferred drug list" means a list of
8 prescription drugs for which the state will make payment
9 without prior authorization or additional charge to the
10 medicaid recipient and that is based on clinical evidence for
11 efficacy and meets the department's cost-effectiveness
12 criteria;

13 (9) "primary care clinics" means facilities
14 that provide the first level of basic or general health care
15 for an individual's health needs, including diagnostic and
16 treatment services, and includes federally qualified health
17 centers or federally qualified health center look-alikes as
18 defined in Section 1905 of the federal act and designated by
19 the federal department of health and human services, community-
20 based health centers, rural health clinics and other eligible
21 programs under the Rural Primary Health Care Act;

22 (10) "primary care provider" means a health
23 care practitioner acting within the scope of his license who
24 provides the first level of basic or general health care for a
25 person's health needs, including diagnostic and treatment

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1 services, initiates referrals to other health care
2 practitioners and maintains the continuity of care when
3 appropriate; and

4 (11) "waiver" means the authority granted by
5 the secretary of the federal department of health and human
6 services, upon the request of the state, that permits the state
7 to receive federal matching funds for expenditures that are not
8 in compliance with federal statutes. "

9 Section 2. EMERGENCY.--It is necessary for the public
10 peace, health and safety that this act take effect immediately.